

Senate Bill 55

By: Senators Pearson of the 51st, Rogers of the 21st, Shafer of the 48th and Williams of the 19th

AS PASSED

AN ACT

To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, so as to change the factors required to be considered in determining fair market value of real property; to change the deadline for filing for forest land conservation use assessment; to change certain provisions regarding the establishment of the equalized adjusted property tax digest; to change certain provisions regarding notice of changes made in taxpayers' returns; to provide for an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, is amended in Code Section 48-5-2, relating to definitions regarding ad valorem taxation of property, by revising subparagraph (B) of paragraph (3) as follows:

"(B) The tax assessor shall consider the following criteria in determining the fair market value of real property:

- (i) Existing zoning of property;
- (ii) Existing use of property, including any restrictions or limitations on the use of property resulting from state or federal law or rules or regulations adopted pursuant to the authority of state or federal law;
- (iii) Existing covenants or restrictions in deed dedicating the property to a particular use;
- (iv) Foreclosure sales, bank sales, other financial institution owned sales, or distressed sales, or any combination thereof, of comparable real property;
- (v) Decreased value of the property based on limitations and restrictions resulting from the property being in a conservation easement; and
- (vi) Any other existing factors deemed pertinent in arriving at fair market value."

SECTION 2.

Said chapter is further amended by revising paragraph (1) of subsection (j) of Code Section 48-5-7.7, relating to forest land conservation use assessment, as follows:

"(j)(1) For the taxable year beginning January 1, 2009, all applications for conservation use assessment under this Code section, including the covenant agreement required under this Code section, shall be filed on or before June 1 of the tax year for which such conservation use assessment is sought, except that in the case of property which is the subject of a reassessment by the board of tax assessors an application for conservation use assessment may be filed in conjunction with or in lieu of an appeal of the reassessment. For each taxable year beginning on or after January 1, 2010, all applications for conservation use assessment under this Code section, including the covenant agreement required under this Code section, shall be filed on or before the last day for filing ad valorem tax returns in the county for the tax year for which such conservation use assessment is sought, except that in the case of property which is the subject of a reassessment by the board of tax assessors an application for conservation use assessment may be filed in conjunction with or in lieu of an appeal of the reassessment. An application for continuation of such conservation use assessment upon a change in ownership of all or a part of the qualified property shall be filed on or before the last date for filing tax returns in the year following the year in which the change in ownership occurred. Applications for conservation use assessment under this Code section shall be filed with the county board of tax assessors who shall approve or deny the application. The county board of tax assessors shall file a copy of the approved application in the office of the clerk of the superior court in the county in which the eligible property is located. The clerk of the superior court shall file and index such application in the real property records maintained in the clerk's office. If the application is not so recorded in the real property records, a transferee of the property affected shall not be bound by the covenant or subject to any penalty for its breach. The fee of the clerk of the superior court for recording such applications shall be paid by the qualified owner of the eligible property with the application for conservation use assessment under this Code section and shall be paid to the clerk by the board of tax assessors when the application is filed with the clerk. If the application is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to Code Section 48-5-306 and shall return any filing fees advanced by the owner. Appeals from the denial of an application by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311."

SECTION 3.

Said chapter is further amended by revising subsection (c) of Code Section 48-5-274 relating to the establishment of the equalized adjusted property tax digest, as follows:

"(c) The assessment ratio of assessed value to fair market value of county property to be established by the state auditor for the purposes of paragraph (8) of subsection (b) of this Code section shall be established through the use of personnel of the Department of Audits and Accounts who have sufficient competence and expertise by way of education, training, and experience in the fields of property evaluation and appraisal techniques. The Department of Audits and Accounts shall use the Standard on Assessment-Ratio Studies published by the International Association of Assessing Officers or its successors to determine the valid transactions necessary to establish accurately the measure of central tendency described in paragraph (8) of subsection (b) of this Code section; provided, however, that standard shall only be used to the extent it does not conflict with criteria enumerated in subparagraph (B) of paragraph (3) of Code Section 48-5-2."

SECTION 4.

Said chapter is further amended by revising subsections (a) and (b) of Code Section 48-5-306, relating to notice of changes made in taxpayers' returns, to read as follows:

"(a) *Method of giving notice to taxpayer of changes made in such taxpayer's return.* Each county board of tax assessors may meet at any time to receive and inspect the tax returns to be laid before it by the tax receiver or tax commissioner. The board shall examine all the returns of both real and personal property of each taxpayer and if in the opinion of the board any taxpayer has omitted from such taxpayer's returns any property that should be returned or has failed to return any of such taxpayer's property at its fair market value, the board shall correct the returns, assess and fix the fair market value to be placed on the property, make a note of such assessment and valuation, and attach the note to the returns. The board shall see that all taxable property within the county is assessed and returned at its fair market value and that fair market values as between the individual taxpayers are fairly and justly equalized so that each taxpayer shall pay as nearly as possible only such taxpayer's proportionate share of taxes. When any such corrections or changes, including valuation increases or decreases, or equalizations have been made by the board, the board shall, within five days, give written notice to the taxpayer of any such changes made in such taxpayer's returns. The notice may be given personally by leaving the notice at the taxpayer's dwelling house, usual place of abode, or place of business with some person of suitable age and discretion residing or employed in the house, abode, or business, or by

sending the notice through the United States mail as first-class mail to the taxpayer's last known address. When notice is given by mail, the county board of tax assessors' return address shall appear in the upper left corner of the mailing face with the direction that if not delivered 'Return in five days to' the above return address, and the lower left corner of the mailing face shall be clearly marked in bold type — 'OFFICIAL TAX MATTER.'

(b) *Contents of notice.*

(1) The notice required to be given by the county board of tax assessors under subsection (a) of this Code section shall be dated and shall contain the name and last known address of the taxpayer. If the assessment of the value of the taxpayer's property is changed, the notice shall contain:

- (A) The amount of the previous assessment;
- (B) The amount of the current assessment;
- (C) The year for which the new assessment is applicable;
- (D) A brief description of the assessed property broken down into real and personal property classifications;
- (E) The fair market value of property of the taxpayer subject to taxation and the assessed value of the taxpayer's property subject to taxation after being reduced; and
- (F) The name and phone number of the person in the assessors' office who is administratively responsible for the handling of the appeal and who the taxpayer may contact if the taxpayer has questions about the reasons for the assessment change or the appeals process.

(2) In addition to the items required under paragraph (1) of this subsection, the notice shall contain a statement of the taxpayer's right to an appeal, which statement shall be in substantially the following form:

'The amount of your ad valorem tax bill for this year will be based on the appraised and assessed values specified in this notice. You have the right to appeal these values to the county board of tax assessors either followed by an appeal to the county board of equalization or to arbitration and in either case, to appeal to the superior court.

If you wish to file an appeal, you must do so in writing no later than 30 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. For further information on the proper method for filing an appeal, you may contact the county board of tax assessors which is located at: (insert address) and which may be contacted by telephone at: (insert telephone number)."

SECTION 5.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2009.

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.